

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PEARLEAN JOHNSON,
o/b/o J.C.A., A Minor Child,
Plaintiff,

vs.

MICHAEL J. ASTRUE¹,
Commissioner of Social Security,
Defendant.

Case No. 4:06CV1282MLM

MEMORANDUM OPINION

This matter is before the court on defendant's Motion to Reverse and Remand pursuant to 42 U.S.C. § 405(g), sentence 4. [Doc. 14] Plaintiff has responded and does not object to defendant's Motion. [Doc. 15] The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). [Doc. 8]

The issue in this case is whether plaintiff is entitled to child's disability benefits under Title XVI of the Social Security Act ("Act"). Defendant's Motion states that after careful review of the case, agency counsel requested the Appeals Council of the Social Security Administration to reconsider the Commissioner's decision. Upon review, the Appeals Council determined that remand was appropriate for further consideration of plaintiff's claim.

Upon receipt of the court's remand Order, the Appeals Council will remand this case to an Administrative Law Judge (ALJ) who will be directed to associate the claim files, make a proper step two determination in the three step process required to determine disability for children and make specific findings for all six functional domains with appropriate rationale to explain the basis for such findings.

¹ Michael J. Astrue was confirmed by the United States Senate as the new Commissioner of Social Security on February 1, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Commissioner Astrue should be substituted as defendant without further action.

The court has considered defendant's Motion and plaintiff's lack of opposition and finds that the Motion should be granted. The entry of final judgment reversing and remanding this case will begin the appeal period which determines the thirty (30) day period during which a timely application for attorney's fees under the Equal Access to Justice Act, 28 U.S.C. 2412 may be filed.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Reverse and Remand is **GRANTED**. [Doc. 14]

IT IS FURTHER ORDERED that a Final Judgment is entered contemporaneously herewith reversing the decision of the ALJ and remanding this case to the Commissioner of Social Security for further consideration pursuant to sentence 4 of 42 U.S.C. § 405(g).

IT IS FURTHER ORDERED that the entry of the Final Judgment will begin the appeal period which determines the thirty (30) day period during which a timely application for attorney's fees under the Equal Access to Justice Act may be made.

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 14th day of February, 2007.